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BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:)	NMLS NO.: 1001095
)	
THE COMMISSIONER OF BUSINESS)	ACCUSATION IN SUPPORT OF NOTICE OF
OVERSIGHT,)	INTENTION TO ISSUE ORDER REVOKING
)	MORTGAGE LOAN ORIGINATOR LICENSE
Complainant,)	OF KENNETH JAY SCHWARTZ
)	
v.)	
)	
KENNETH JAY SCHWARTZ,)	
)	
Respondent.)	
)	

The California Commissioner of Business Oversight (“Commissioner” or “Complainant”) is informed and believes, and based upon such information and belief, alleges and charges as follows:

I. INTRODUCTION

1. On May 15, 2013, Kenneth Jay Schwartz (“Schwartz” or “Respondent”) filed an application (“Form MU4 application” or “application”) with the Commissioner pursuant to the California Residential Mortgage Lending Act (“CRMLA”) (Financial Code section 50000 et seq.), in particular, Financial Code section 50140. The application was for licensure as a mortgage loan originator, with employment on behalf of RH Lending. Schwartz submitted his application to the

Commissioner by filing his Form MU4 application through the National Mortgage Licensing System (NMLS). The Form MU4 application, at Question K, under the heading of “Disclosure Questions,” asks the following:

(K) has any state or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization (SRO) ever:

(1) found you to have made a false statement or omission or been dishonest, unfair or unethical?

(9) entered an order concerning you in connection with any license or registration?

2. Schwartz answered “Yes” to both of these questions. He also submitted to the Commissioner a California State Bar Attorney Record Search document. That document indicates Schwartz was subject to two separate disciplinary actions in 1990 and 1998 by the California State Bar. Despite these two actions, Schwartz’s State Bar license remained “Active.” Accordingly, the Commissioner approved the mortgage loan originator license application on Schwartz on January 23, 2014.

II. GROUNDS EXIST FOR REVOKING SCHWARTZ’S LICENSE

3. Financial Code section 50327 provides that the Commissioner may revoke any license if the Commissioner finds that any fact or condition exists that, if it had existed at the time of the original application for the license, reasonably would have warranted the Commissioner in refusing to issue the license originally. Similarly, Financial Code section 50513 authorizes the Commissioner to revoke a mortgage loan originator license if the licensee fails to meet the requirements of section 50141. Financial Code section 50141 also requires the Commissioner to deny an application for a mortgage loan originator license if the Commissioner cannot find that the applicant “has demonstrated such financial responsibility, character, and general fitness as to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of the division.”

4. The Form MU4 application requires the applicant to keep current information in the Form MU4 application, and to file accurate supplementary information on a timely basis.

On October 22, 2015, Schwartz filed an amended Form MU4 to indicate that his license to practice

1 law had been revoked by the State Bar. With his amendment, he attached a copy of a “Decision and
2 Order of Involuntary Inactive Enrollment,” recommending that Schwartz be disbarred from the
3 practice of law in the State of California. This decision was dated February 9, 2015, and Schwartz
4 was subsequently disbarred from the practice of law on July 19, 2015. A review of this decision
5 indicates that Schwartz engaged in a pattern of aggravated and egregious misconduct as a licensed
6 attorney. Specifically, the decision of the State Bar Court indicates Respondent failed to perform
7 legal services with competence by not filing a bankruptcy petition as he was retained to do, failed to
8 respond promptly to client inquiries by not responding to a client on seven occasions over a two-
9 month period, and failed to cooperate in a State Bar investigation by failing to respond to a State bar
10 investigator on two occasions.

11 5. Moreover, Respondent had engaged in prior bad acts in 1990 and 1998. In 1990, pursuant to
12 an order of the State Bar Court, a public reproof was imposed on Respondent because he failed to
13 perform legal services competently, he improperly abandoned a client, he failed to return unearned
14 fees, and he failed to communicate to a client. In 1998, pursuant to a Supreme Court order,
15 Respondent’s law license was suspended for two years (action stayed subject to probation and
16 conditions). Again, Respondent failed to perform work competently, abandoned a client, failed to
17 return unearned fees, failed to return client files, failed to comply with a court order, failed to
18 communicate with a client, and failed to cooperate in a disciplinary investigation. Examples of
19 Respondent’s failures include a breach of contract case that was dismissed when Schwartz did not
20 timely file for arbitration, and an attorney malpractice case that was dismissed after Schwartz failed
21 to appear at a hearing.

22 6. Complainant asserts that if the foregoing totality of circumstances, including the disbarment
23 action against Schwartz, had been known at the time of the filing of his mortgage loan originator
24 application on May 15, 2013, the Complainant would have been mandated to deny the license
25 application under Financial Code section 50141. Accordingly grounds exist under Financial Code
26 sections 50327 and 50513 to revoke the license of Kenneth Jay Schwartz.

27 III. CONCLUSION

28 7. Complainant finds, by reason of the foregoing, that Schwartz, through his aggravated

1 pattern and practice of violating attorney licensing laws, by being the subject of three separate
2 disciplinary proceedings of the State Bar of California, by having his law license revoked, by
3 engaging in acts of mismanagement with clients, and by failing on two occasions to cooperate with
4 the State Bar's investigation, has failed to demonstrate such financial responsibility, character, or
5 general fitness as to command the confidence of the community and to warrant a determination that
6 he will operate honestly, fairly, and efficiently within the purposes of the California Residential
7 Mortgage Lending Act. For these reasons, denial of Respondent's mortgage loan originator license
8 would have been required under Financial Code section 50141.

9 THEREFORE, Complainant asserts that Financial Code sections 50327 and 50513 authorize
10 the Commissioner to revoke the mortgage loan originator license of Kenneth Jay Schwartz.

11 WHEREFORE IT IS PRAYED that the mortgage loan originator license of Kenneth Jay
12 Schwartz be revoked under Financial Code sections 50327 and 50513.

13 Dated: March 18, 2016
14 Sacramento, CA

JAN LYNN OWEN
Commissioner of Business Oversight

15 By _____
16 TIMOTHY L. Le BAS
17 Senior Counsel
18 Enforcement Division
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